



12 JUL 2006

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In re Application of	:	
BEKANICH et al.	:	
U.S. Application No.: 10/527,092	:	DECISION ON PETITION
PCT No.: PCT/US04/23518	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 23 July 2004	:	
Priority Date: 23 July 2003	:	
Attorney Docket No.: B6225.0001/P0001	:	
For: AIRTIME CONTACT MANAGER	:	

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 28 April 2006 to accept the application without the signature of joint-inventor, Joseph A. Bekanich.

BACKGROUND

On 23 July 2004, applicants filed international application PCT/US04/23518 which claimed a priority date of 23 July 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 January 2006.

On 09 March 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an information disclosure statement.

On 29 July 2005, applicant was mailed a "Notification of Missing Requirements under 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 07 November 2005, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 28 February 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 28 April 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1); (2); and (3) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Joseph A. Beganich. The steps taken by petitioner are sufficient to show that Joseph A. Beganich has refused to execute the application.

As to item (4), the declaration filed 28 April 2006 is not in compliance with 37 CFR 1.497(a)-(b), in that, alterations were made to the declaration after it was executed. Specifically, the declaration submitted with the present petition includes information (the citizenship of the fourth inventor) that was not contained on the declaration filed 07 November 2005 and these alterations have been made after the declaration had been executed by the other joint inventors.

37 CFR 1.52(c) states:

(c) Any interlineation, erasure, cancellation or other alteration of the application papers filed should be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper. Application papers containing alterations made after the signing of an oath or declaration referring to those application papers must be supported by a supplemental oath or declaration under 1.67.

Additionally, section 605.04(a) of the MPEP states in part:

In summary, it is emphasized that the application filed must be the application executed by the applicant and it is improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant (emphasis added).

Therefore, the copy of the declaration filed cannot be accepted at this time and a newly executed declaration is required.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Joseph A. Beganich under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to:
Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box
1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the
attention of the Office of PCT Legal Administration.



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